

This document presents the actual draft of what is popularly known as the "Kerry-Lugar" bill.

HR 1886 RH

Union Calendar No. 66
111th CONGRESS
1st Session
H. R. 1886
[Report No. 111-129, Part I]

To authorize democratic, economic, and social development assistance for Pakistan, to authorize security assistance for Pakistan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

April 2, 2009

Mr. BERMAN (for himself, Mr. KIRK, Mr. ACKERMAN, Mr. ROYCE, Ms. JACKSON-LEE of Texas, Mr. SHERMAN, and Mr. WEXLER) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

May 22, 2009

Reported from the Committee on Committee on Foreign Affairs with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

May 22, 2009

The Committee on Rules discharged

May 22, 2009

Referred to the Committee on Armed Services for a period ending not later than June 5, 2009, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(c), rule X

June 2, 2009

Additional sponsors: Mr. FRANK of Massachusetts, Mr. ISRAEL, Mr. MCMAHON, Mr. MCDERMOTT, Mr. CONNOLLY of Virginia, and Mr. VAN HOLLEN

June 2, 2009

The Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 2, 2009]

A BILL

To authorize democratic, economic, and social development assistance for Pakistan, to authorize security assistance for Pakistan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title- This Act may be cited as the `Pakistan Enduring Assistance and Cooperation Enhancement Act of 2009' or the `PEACE Act of 2009'.

(b) Table of Contents- The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Definitions.

Sec. 3. Findings.

Sec. 4. Declaration of principles.

TITLE I--DEMOCRATIC, ECONOMIC, AND SOCIAL DEVELOPMENT ASSISTANCE FOR PAKISTAN

Sec. 101. Purposes of assistance.

Sec. 102. Authorization of assistance.

Sec. 103. Multilateral support for Pakistan.

Sec. 104. Pakistan Democracy and Prosperity Fund.

Sec. 105. Authorization of appropriations.

TITLE II--SECURITY ASSISTANCE FOR PAKISTAN

Sec. 201. Sense of Congress.

Sec. 202. Purposes of assistance.

Sec. 203. Authorization of assistance.

Sec. 204. Pakistan Counterinsurgency Capabilities Fund.

Sec. 205. Exchange program between military and civilian personnel of Pakistan and certain other countries.

Sec. 206. Limitation on United States military assistance to Pakistan.

Sec. 207. Authorization of appropriations.

TITLE III--MISCELLANEOUS PROVISIONS

Sec. 301. Comprehensive regional security strategy.

Sec. 302. Monitoring and evaluation of assistance.

Sec. 303. Auditing.
Sec. 304. Requirements for civilian control of United States assistance for Pakistan.
Sec. 305. Sense of Congress.
Sec. 306. Reports.
Sec. 307. Sunset.

SEC. 2. DEFINITIONS.

In this Act:

- (1) APPROPRIATE CONGRESSIONAL COMMITTEES- Except as otherwise provided in this Act, the term `appropriate congressional committees' means the Committees on Appropriations and Foreign Affairs of the House of Representatives and the Committees on Appropriations and Foreign Relations of the Senate.*
- (2) COUNTERINSURGENCY- The term `counterinsurgency' means efforts to defeat organized movements that seek to overthrow the duly constituted Governments of Pakistan and Afghanistan through the use of subversion and armed conflict.*
- (3) COUNTERTERRORISM- The term `counterterrorism' means efforts to combat--
 - (A) al Qaeda; and*
 - (B) other terrorist organizations, as such term is defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).**
- (4) FATA- The term `FATA' means the Federally Administered Tribal Areas of Pakistan.*
- (5) FCR- The term `FCR' means the Frontier Crimes Regulation, codified under British law in 1901, and applicable to the FATA.*
- (6) NWFP- The term `NWFP' means the North West Frontier Province of Pakistan, which has Peshawar as its provincial capital.*

SEC. 3. FINDINGS.

Congress finds the following:

- (1) The Islamic Republic of Pakistan has been a critical ally of the United States for more than 4 decades.*
- (2) With the free and fair election of February 18, 2008, Pakistan returned to civilian rule after almost 9 years under a military dictatorship.*
- (3) After the September 11, 2001, terrorist attacks against the United States, Pakistan chose to partner with the United States in the fight against al Qaeda, the Taliban, and other extremist and terrorist groups.*
- (4) Since 2001, the United States has contributed more than \$12,000,000,000 to Pakistan to strengthen Pakistan's governance, economy, education system, healthcare services, and military, so as to bring freedom and opportunities to the people of Pakistan while helping to combat terrorism and to counter a domestic insurgency.*
- (5) The United States requires a balanced, integrated, countrywide strategy that provides assistance throughout Pakistan and does not disproportionately focus on military assistance or one particular area or province.*
- (6) Despite killing or capturing hundreds of al Qaeda operatives and other terrorists--including major al Qaeda leaders, such as Khalid Sheikh Muhammad, Ramzi bin al-Shibh, and Abu Faraj al-Libi--Pakistan's FATA, parts of the NWFP, Quetta in Balochistan, and Muridke in Punjab remain a sanctuary*

for al Qaeda, the Afghan Taliban, and affiliated groups from which these groups organize terrorist actions against Pakistan and other countries.

(7) Pakistan's security forces have recently begun taking concerted action against those who threaten Pakistan's security and stability, with military operations in the Bajour agency in the FATA and in the Swat, Buner, and Dir districts in the NWFP.

(8) The displacement of over 1,000,000 Pakistanis poses a grave humanitarian crisis and requires the immediate attention of the United Nations, and the strong support of donor nations, to provide food, water, shelter, medicine, sanitation and other emergency services and supplies to the displaced, along with longer-term development assistance. The humanitarian crisis highlights the need for Pakistan to develop an effective national counterinsurgency strategy, in order to mitigate such displacement.

SEC. 4. DECLARATION OF PRINCIPLES.

Congress declares that the relationship between the United States and Pakistan should be based on the following principles:

(1) Pakistan is a critical friend and ally to the United States, both in times of strife and in times of peace, and the two countries share many common goals, including combating terrorism and violent radicalism, solidifying democracy and rule of law in Pakistan, and promoting the social and material well-being of the people of Pakistan.

(2) United States assistance to Pakistan is intended to supplement, not supplant, Pakistan's own efforts in building a stable, secure, and prosperous Pakistan, and United States assistance will be wholly ineffective without Pakistan's own serious efforts to improve the health, education, and living standards of its population, including maintaining or increasing the financial resources devoted to such efforts.

(3) The United States supports Pakistan's struggle against extremist elements and recognizes the profound sacrifice made by Pakistan in the fight against terrorism, including the loss of more than 1,600 soldiers since 2001 in combat with al Qaeda, the Taliban, and other extremist and terrorist groups.

(4) The United States intends to work with the Government of Pakistan--

(A) to build mutual trust and confidence by actively and consistently pursuing a sustained, long-term, multifaceted relationship between the two countries, devoted to strengthening the mutual security, stability, and prosperity of both countries;

(B) to support the people of Pakistan and their democratic government in their efforts to consolidate democracy, through strengthening Pakistan's parliament, helping Pakistan reestablish an independent and transparent judicial system, and working to extend the rule of law in all areas in Pakistan;

(C) to promote long-term development and infrastructure projects, including in healthcare, water management, and energy programs, in all areas of Pakistan, that are sustained and supported by each successive democratic government in Pakistan;

(D) to encourage sustainable economic development in Pakistan and the integration of Pakistan into the global economy in order to improve the living conditions of the people of Pakistan;

(E) to ensure that the people of Pakistan, including those living in areas governed by the FCR, have access to public, modernized education and vocational training to enable them to provide for themselves, for their families, and for a more prosperous future for their children;

(F) to expand people-to-people engagement between the two countries, through increased educational, technical, and cultural exchanges and other methods;
(G) to ensure transparency of and provide effective accountability for all United States assistance and reimbursements provided to Pakistan;
(H) to take steps to improve Pakistan's counterterrorism financing and anti-money laundering laws to comply with international standards, to include applying for 'Financial Action Task Force' observer status and adhering to the United Nations International Convention for the Suppression of the Financing of Terrorism;
(I) to establish a counterinsurgency and counterterrorism strategy to prevent any territory of Pakistan from being used as a base or conduit for terrorist attacks in Pakistan, or elsewhere, and ensure that madrasas in Pakistan are not used to incite terrorism;
(J) to ensure that Pakistan has strong and effective law enforcement and national defense forces, under civilian leadership, with sufficient and appropriate security equipment and training to effectively defend Pakistan against internal and external threats;
(K) to ensure access of United States investigators to individuals suspected of engaging in worldwide proliferation of nuclear materials, as necessary, and restrict such individuals from travel or any other activity that could result in further proliferation;
(L) to help Pakistan meet its commitment to not support any person or group that conducts violence, sabotage, or other activities meant to instill fear or terror in Pakistan's neighboring countries; and
(M) to help Pakistan gain control of its under-governed areas and stop any support, direction, guidance to, or acquiescence in the activities of, any person or group that engages in acts of violence or intimidation against civilians, civilian groups, or governmental entities.

TITLE I--DEMOCRATIC, ECONOMIC, AND SOCIAL DEVELOPMENT ASSISTANCE FOR PAKISTAN

SEC. 101. PURPOSES OF ASSISTANCE.

The purposes of assistance under this title are--

- (1) to demonstrate unequivocally the long-term commitment of the United States to the people of Pakistan and Pakistan's democratic institutions;*
- (2) to support the consolidation of democracy, good governance, and the rule of law in Pakistan;*
- (3) to help build the capacity of law enforcement forces in Pakistan to combat terrorism and violent militancy and expeditiously investigate, arrest, and prosecute alleged criminals, consistent with the rule of law and due process;*
- (4) to further the sustainable and effective economic and social development of Pakistan and the improvement of the living conditions of the people of Pakistan, especially in areas of direct interest and importance to their daily lives;*
- (5) to strengthen regional ties between Pakistan and its neighbors by offering concrete nonmilitary assistance for issues of mutual economic and social concern;*
- (6) to strengthen Pakistan's public education system, increase literacy, expand opportunities for vocational training, and help create an appropriate national curriculum for all schools in Pakistan;*
- (7) to expand people-to-people engagement between the United States and Pakistan, through increased educational, technical, and cultural exchanges and other methods; and*

(8) to strengthen respect for internationally recognized human rights in efforts to stabilize the security environment in Pakistan.

SEC. 102. AUTHORIZATION OF ASSISTANCE.

(a) In General- To carry out the purposes of section 101, the President is authorized to provide assistance for Pakistan to support the activities described in subsection (b).

(b) Activities Supported- Activities that may be supported by assistance under subsection (a) include the following:

(1) FORTIFYING DEMOCRATIC INSTITUTIONS- To support, notwithstanding any other provision of law, democratic institutions in Pakistan in order to strengthen civilian rule and long-term stability, including assistance such as--

(A) support for efforts to strengthen the National Parliament of Pakistan, including--

(i) assistance to parliamentary committees to enhance the capacity to conduct public hearings and oversee government activities, including national security issues and the military budget, to solicit input on key public policy issues, and to oversee the conduct of elections;

(ii) support for the establishment of constituency offices and otherwise promote the responsibility of members of parliament to respond to constituents; and

(iii) strengthening of the role of parliamentary leadership;

(B) support for voter education and civil society training, including training with grassroots organizations to enhance the capacity of the organizations to advocate for the development of public policy;

(C) support for political parties, including increasing their capacity and protecting their right to carry out political activities without restriction (other than reasonable administrative requirements commonly applied in democratic countries) and fostering the responsiveness of such parties to the needs of the people of Pakistan;

(D) support for strengthening the capacity of the civilian Government of Pakistan to carry out its responsibilities, including supporting the establishment of frameworks that promote government transparency and criminalize corruption in both the government and private sector, audit offices, inspectors general offices, third party monitoring of government procurement processes, whistle-blower protections, and anti-corruption agencies; and

(E) in particular, support for efforts by the Government of Pakistan to promote governance reforms in the FATA, including--

(i) extension of the Political Parties Act;

(ii) local experimentation with methods to transition from the FCR; and

(iii) long-term development of durable and responsive political institutions.

(2) ENHANCEMENT AND STRENGTHENING OF THE JUDICIAL SYSTEM AND LAW ENFORCEMENT- To support, notwithstanding any other provision of law, Pakistan's efforts to expand the rule of law and build the capacity, transparency, and trust in government institutions, at the national, provincial, and local levels, including assistance such as--

(A) support for the rule of law and systemic improvement of judicial and criminal justice institutions, including--

(i) management of courts;

(ii) enhanced career opportunities and professional training for judges, public defenders, and prosecutors; and

(iii) efforts to enhance the rule of law to all areas in Pakistan where the writ of the government is under heightened challenge by terrorists and militants, including through innovations in the delivery of judicial services that enhance the legitimacy of state institutions;

(B) support for professionalization of the police, including--

(i) training regarding use of force;

(ii) education and training regarding human rights;

(iii) training regarding evidence preservation and chain of custody; and

(iv) training regarding community policing;

(C) support for independent law enforcement agencies, such as the Intelligence Bureau of the Ministry of Interior, responsive to civilian control, including--

(i) enhanced coordination with judicial processes;

(ii) enhancement of forensics capabilities;

(iii) data collection and analyses;

(iv) case tracking and management;

(v) financial intelligence functions; and

(vi) maintenance of data systems to track terrorist of criminal activity; and

(D) strengthening the capacity of the police and other civilian law enforcement agencies to provide a robust response to threats from extremists and terrorists along the frontier and elsewhere in Pakistan, including--

(i) the development of an elite rapid reaction force which could be deployed on short notice to secure areas that are threatened by militancy; and

(ii) facilitating improved counterterrorism and counterinsurgency coordination between local government officials, the police, paramilitary, and military leaders.

(3) SUPPORT FOR BROAD-BASED AND SUSTAINABLE ECONOMIC DEVELOPMENT- To support economic development in Pakistan by--

(A) promoting energy sector reform and development;

(B) expanding assistance for agricultural and rural development, including farm-to-market roads, systems to prevent spoilage and waste, and other small-scale infrastructure improvements that will enhance supply and distribution networks;

(C) increasing employment opportunities, including support to small and medium enterprises, microfinance and microenterprise activities, and in particular programs to improve the lives of women and girls; and

(D) increasing investment in infrastructure, including construction of roads, water resource management systems, irrigation channels, and continued development of a national aviation industry and aviation infrastructure.

(4) SUPPORT TO INCREASE LOCAL CAPACITY- To increase the capacity and improve the sustainability of Pakistan's national, provincial, and local governmental and nongovernmental institutions, including assistance to--

(A) increase and improve the capacity of Pakistan's national, provincial, and local governmental institutions by--

(i) providing technical assistance to all ministries to improve transparency and ability to respond to the needs of the people of Pakistan; and

(ii) promoting the implementation of fiscal and personnel management, including revenue tracking and expenditure systems; and

(B) enhance the capacity of Pakistan's nongovernmental and civil society organizations to respond to the needs of the people of Pakistan by--

(i) increasing support for local nongovernmental organizations with demonstrated experience in delivering services to the people of Pakistan, particularly to women, children, and other vulnerable populations in Pakistan;

(ii) providing training and education to local nongovernmental and civil society organizations on ways to identify and improve the delivery of services to the people of Pakistan; and

(iii) promoting local ownership and participation, including encouraging communities to contribute a percentage of the value of United States projects or activities carried out under this title in the form of labor, in-kind materials, or other provisions.

(5) SUPPORT FOR PUBLIC EDUCATION SYSTEM- To support Pakistan's public education system, including--

(A) implementation of a national education strategy, to include both primary and secondary education, focused on literacy and civic education, including--

(i) programs to assist development of modern, nationwide school curriculums for public, private, and religious schools that incorporate relevant subjects, such as math, science, literature, and human rights awareness, in addition to agricultural education and training;

(ii) enhancement of civic education programs focused on political participation, democratic institutions, and tolerance of diverse ethnic and religious groups; and

(iii) support for the proper oversight of all educational institutions, including madrasas, as required by Pakistani law, including registration with the Ministry of Education and regular monitoring of curriculum by the Ministry of Education to ensure students in Pakistan receive a comprehensive education;

(B) initiatives to enhance the access to education for women and girls, and to increase women's literacy, with special emphasis on helping girls stay in school;

(C) funding to the Government of Pakistan to use to increase immediately teacher salaries and to recruit and train teachers and administrators, as well as develop formalized salary scales with merit-based pay increases;

(D) establishment of vocational and technical programs to enhance employment opportunities;

(E) encouragement of United States and Pakistani public-private partnerships to increase investment in higher education and technical training opportunities;

(F) construction and maintenance of public schools, including water sanitation, perimeter walls, and recreation areas;

(G) provision of textbooks and other learning materials and food assistance for student meals; and

(H) provision of software to educational institutions and students at the lowest possible cost, specifically targeting universities that

specialize in information technology, and women's colleges and women's secondary schools.

(6) SUPPORT FOR HUMAN RIGHTS- To promote respect for and compliance with internationally recognized human rights, including assistance such as--

(A) programs to strengthen civil society organizations that promote internationally recognized human rights, including religious freedom, freedom of expression, and freedom of association, and that support human rights monitoring;

(B) promotion of education regarding internationally recognized human rights;

(C) programs designed to end traditional practices and punishments that are inconsistent with internationally recognized human rights norms and protections, such as honor killings and other forms of cruel and unusual punishments;

(D) promotion of freedom of religion and religious tolerance, protection of religious minorities, and promotion of freedom of expression and association, including support for responsible independent media;

(E) promotion of nongovernmental organizations that focus on the protection of women and girls, including women-led organizations and programs that support the participation of women in the national, provincial, and local political process, and programs to end violence against women, including rape;

(F) technical, legal, and law enforcement assistance for the investigation of past disappearances of individuals in Pakistan and the development of a national data base of such individuals; and

(G) programs in support and protection of the rights of ethnic minorities in Pakistan, including Baluchis, Sindhis, and Pashtuns, to preserve their language, culture, traditional areas of inhabitancy, and to fight any direct or indirect discrimination.

(7) SUPPORT FOR REFUGEES AND INTERNALLY DISPLACED PERSONS- It is the sense of Congress that--

(A) counterinsurgency operations being carried out by the Government of Pakistan should be designed to minimize civilian casualties and collateral damage to the people of Pakistan and to provide security for the delivery of humanitarian assistance to the affected civilian population;

(B) the United States should continue to provide robust assistance to the people of Pakistan who have been displaced as a result of ongoing conflict and violence;

(C) the United States should support international efforts to coordinate assistance to refugees and internally displaced persons in Pakistan, including by providing support to international and nongovernmental organizations for this purpose;

(D) the Administrator of the United States Agency for International Development should support the development objectives of the Refugee Affected and Host Areas (RAHA) Initiative in Pakistan to address livelihoods, health, education, infrastructure development, and environmental restoration in identified parts of the country where Afghan refugees have lived; and

(E) the Administrator of the United States Agency for International Development should evaluate the effectiveness of the livelihoods projects in the FATA in order to determine whether systems need to be put into place to improve programming in this key sector.

(8) SUPPORT FOR HEALTHCARE EFFORTS- To provide urgently needed healthcare assistance to the people of Pakistan, including assistance to supplement the Government of Pakistan's efforts to eliminate diseases, including hepatitis.

(9) SUPPORT FOR PUBLIC DIPLOMACY- To implement a more effective public diplomacy strategy in Pakistan in order to ensure that the Pakistani public recognizes that it is in Pakistan's own interest to partner with the United States and other like-minded countries to combat militant extremism, as well as to promote a better understanding of the United States, including through the following:

(A) Partnering with the Government of Pakistan to highlight the negative behavior of insurgent groups and to encourage civil society, respected scholars, and other leaders to speak out against militancy and violence.

(B) Providing technical assistance to the Government of Pakistan to both disrupt and provide alternatives to the illegal FM radio stations used by insurgent groups in the FATA and adjacent districts of the NWFP.

(C) Expanded exchange activities under the Fulbright Program, the International Visitor Leadership Program, the Youth Exchange and Study Program, and related programs administered by the Department of State designed to promote mutual understanding and interfaith dialogue.

(D) Expansion of sister institution programs between United States and Pakistani schools and universities, towns and cities, and other organizations in such fields as medicine and healthcare, business management, environmental protection, information technology, and agriculture.

(E) Additional scholarships to enable students to study in the United States.

SEC. 103. MULTILATERAL SUPPORT FOR PAKISTAN.

To the extent that Pakistan continues to evolve toward civilian control of the government and to develop and implement comprehensive economic reform programs, the President should do the following:

(1) MULTILATERAL SUPPORT- Take the lead in mobilizing international financial institutions, in particular the International Monetary Fund and affiliated institutions in the World Bank group, to provide timely and appropriate resources to help Pakistan.

(2) STABILIZATION ASSISTANCE- In conjunction with other governments and international financial institutions (including the International Monetary Fund), support the implementation of a plan of the Government of Pakistan to attack structural economic problems, address pressing social problems, carry out comprehensive economic reform, and relieve immediate and urgent balance of payments requirements in Pakistan.

(3) CURRENCY STABILIZATION LOANS- Provide leadership in supporting multilateral agreements to provide government-to-government loans for currency stabilization in Pakistan if the loans can reduce inflation and thereby foster conditions necessary for the effective implementation of economic reforms.

SEC. 104. PAKISTAN DEMOCRACY AND PROSPERITY FUND.

(a) Establishment of Fund- There is established in the Treasury of the United States a fund to be known as the `Pakistan Democracy and Prosperity Fund' (hereinafter in this section referred to as the `Fund'), consisting of such amounts as may be appropriated or transferred to the Fund as provided in this section and which may be used for purposes of this title.

(b) Transfers to Fund- The Fund shall consist of the following:

(1) Amounts appropriated to carry out this title.

(2) Amounts appropriated on or after the date of the enactment of this Act for `Development Assistance', `Global Health and Child Survival', and the `Economic Support Fund' for assistance for Pakistan under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) that are transferred by the President to the Fund pursuant to subsection (d).

(3) To the extent or in the amounts provided in advance in appropriations Acts, amounts accepted by the President under subsection (c) that are transferred by the President to the Fund pursuant to subsection (d).

(c) Acceptance of Amounts From Outside Sources- The President may accept funds from non-United States Government sources, including foreign governments, nongovernmental organizations, private business entities, and private individuals, for purposes of carrying out this title.

(d) Status of Availability of Amounts in Fund- The President is authorized to transfer to the Fund amounts under paragraphs (2) and (3) of subsection (b). Such amounts shall be merged with and shall be available for any purpose for which any of the amounts so transferred are available.

(e) Report- The President shall transmit to the appropriate congressional committees not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter until September 30, 2018, a report on programs, projects, and activities carried out using amounts obligated and expended from the Fund.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) In General- There are authorized to be appropriated to the President to carry out this title \$1,500,000,000 for each of the fiscal years 2010 through 2013.

(b) Availability- Amounts authorized to be appropriated to carry out this title for a fiscal year are--

(1) authorized to remain available until September 30 of the succeeding fiscal year; and

(2) in addition to amounts otherwise available for such purposes.

(c) Sense of the Congress- It is the sense of Congress that United States assistance provided under this title should be made available on a proportional and equitable basis between the FATA and other regions of Pakistan.

TITLE II--SECURITY ASSISTANCE FOR PAKISTAN

SEC. 201. SENSE OF CONGRESS.

It is the sense of Congress that--

(1) United States security assistance for Pakistan should be used to improve relationships between United States military and Pakistani military personnel, including outreach to the `lost generation' of Pakistan's officers who did not attend United States-sponsored training as a result of restrictions placed on United States assistance for Pakistan due to Pakistan's possession of a nuclear device; and

(2) United States security assistance for Pakistan should be fully accountable, should be contingent on Pakistan ending support for terrorist groups, and should meet the national security needs of Pakistan.

SEC. 202. PURPOSES OF ASSISTANCE.

The purposes of assistance under this title are--

- (1) to support Pakistan's paramount national security need to fight and win the ongoing counterinsurgency within its borders;*
- (2) to work with the Government of Pakistan to protect and secure Pakistan's borders and prevent any Pakistani territory from being used as a base or conduit for terrorist attacks in Pakistan, or elsewhere;*
- (3) to work in close cooperation with the Government of Pakistan to coordinate action against extremist and terrorist targets; and*
- (4) to develop knowledge of and appreciation for democratic governance and a military that is controlled by and responsible to democratically elected civilian leadership.*

SEC. 203. AUTHORIZATION OF ASSISTANCE.

(a) International Military Education and Training-

- (1) IN GENERAL- Of the amounts authorized to be appropriated to carry out this title for a fiscal year, not less than \$4,000,000 is authorized to be made available for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) for Pakistan, including expanded international military education and training (commonly known as 'E-IMET').*
- (2) USE OF FUNDS- Not less than 30 percent of the amount authorized to be made available under this subsection for a fiscal year is authorized to be used to pay for courses of study and training in counterinsurgency and civil-military relations.*

(b) Foreign Military Financing Program-

- (1) IN GENERAL- Of the amounts authorized to be appropriated to carry out this title for a fiscal year, not less than \$300,000,000 is authorized to be made available for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) for the purchase of defense articles, defense services, and military education and training for Pakistan.*
- (2) USE OF FUNDS- Not less than 75 percent of the amount authorized to be made available under this subsection for a fiscal year is authorized to be used for the purchase of defense articles, defense services, and military education and training for activities relating to counterinsurgency and counterterrorism operations in Pakistan. Such articles, services, and military education and training may include the following:*
 - (A) Aviation maintenance and logistics support for United States-origin and United States-supported rotary wing aircraft and upgrades to such aircraft to include modern night vision and targeting capabilities.*
 - (B) Intelligence, surveillance, and reconnaissance (ISR) ground and air manned and unmanned platforms, including sustainment.*
 - (C) Command and control capabilities.*
 - (D) Force protection and counter improvised explosive device capabilities, including protection of vehicles.*
 - (E) Protective equipment, such as body armor and helmets, night vision goggles, and other individual equipment, including load-bearing*

equipment, individual and unit level first aid equipment, ballistic eye protection, and cold weather equipment.

(F) Appropriate individual and unit level medical services and articles for the Pakistan Army, the Pakistan Frontier Corps, and other appropriate security forces.

(G) Assistance to enable the Pakistani military to distribute humanitarian assistance and establish a tactical civil-military operations capability, including a civil affairs directorate.

(3) RESTRICTION RELATING TO F-16 PROGRAM-

(A) CONGRESSIONAL FINDING- In accordance with the Letters of Offer and Acceptance signed between the United States and Pakistan in 2006, Congress finds that the Government of Pakistan is responsible for making the remaining payments of the F-16 sale with its own national funds.

(B) RESTRICTION- Subject to subparagraph (C), amounts authorized to be made available under this subsection or section 204 for a fiscal year may not be used for the purchase of, or upgrade to, F-16 fighter aircraft or munitions for such aircraft.

(C) EXCEPTION- Amounts authorized to be made available under this subsection for a fiscal year are authorized to be used for military construction pursuant to the security plan contained in the Letters of Offer and Acceptance signed between the United States and Pakistan in 2006.

(D) WAIVER- The President may waive the restriction under subparagraph (B) with respect to amounts authorized to be made available under this subsection for a fiscal year, other than amounts authorized to be made available under paragraph (2) of this subsection, if the President certifies to the appropriate congressional committees not later than 15 days prior to exercising the authority of this subparagraph that the waiver is important to the national security interests of the United States.

(4) SECURITY ASSISTANCE PLAN- *Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a plan for the proposed use of amounts authorized to be made available under this subsection for each of the fiscal years 2010 through 2013. Such plan may be transmitted to the appropriate congressional committees in conjunction with the plan required under section 204(f)(1).*

(5) DEFINITIONS- *In this section, the terms 'defense articles', 'defense services', and 'military education and training' have the meaning given such terms in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403).*

(c) Sense of Congress- *It is the sense of Congress that the United States should facilitate Pakistan's establishment of a program to enable the Pakistani military to provide reconstruction assistance in areas damaged by combat operations.*

SEC. 204. PAKISTAN COUNTERINSURGENCY CAPABILITIES FUND.

(a) Establishment of Fund- *There is established in the Treasury of the United States a fund to be known as the 'Pakistan Counterinsurgency Capabilities Fund' (hereinafter in this section referred to as the 'Fund' or the 'PCCF'), consisting of such amounts as may be appropriated or transferred to the Fund as provided in this section.*

(b) Transfers to Fund- *The PCCF shall consist of the following:*

(1) Amounts appropriated to carry out this section.

(2) Amounts appropriated on or after the date of the enactment of this Act to carry out the provisions of chapter 8 of part I and chapters 2, 5, 6, and 8 of part II of the Foreign Assistance Act of 1961 and section 23 of the Arms Export

Control Act for assistance for enhancing counterinsurgency capabilities of Pakistan that are transferred by the President to the Fund pursuant to subsection (e).

(c) Purposes of Fund- Amounts in the Fund are authorized to be used by the Secretary of State, with the concurrence of the Secretary of Defense, to enhance the capability of Pakistan to conduct counterinsurgency and counterterrorism operations, including-

(1) the training and equipping of the armed forces of Pakistan, including the articles, services, and military education and training described in section 203(b)(2);

(2) the training and equipping of paramilitary and other security forces, including the Frontier Corps, and, on an exceptional basis, irregular security forces; and

(3) building the capability of the forces described in paragraphs (1) and (2) to respond to urgent humanitarian relief and reconstruction requirements that will immediately assist those civilians affected by military operations.

(d) Additional Authority-

(1) IN GENERAL- Except as provided in section 3(a)(2) of the Arms Export Control Act and except as otherwise provided in this title, amounts in the Fund shall be available notwithstanding any other provision of law.

(2) AVAILABILITY- Amounts in the Fund shall be available in the fiscal year they were appropriated and the succeeding fiscal year.

(e) Transfer Authority-

(1) IN GENERAL- The Secretary of State may transfer amounts appropriated for Pakistan pursuant to the provisions of law described in subsection (b)(2) to the Fund. Such funds shall be merged with amounts in the Fund and shall be available for any purpose for which any of the amounts so transferred are available.

(2) TO OTHER AGENCIES- The Secretary of State may transfer amounts in the Fund to the Department of Defense or any other Federal department or agency, with the concurrence of the head of such department or agency, to enable such departments and agencies to support Pakistan's counterinsurgency operations, and such amounts may be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred or may be transferred pursuant to the authorities contained in the Foreign Assistance Act of 1961.

(3) NOTIFICATION- The Secretary of State shall, not less than 15 days prior to making transfers from Fund, notify the appropriate congressional committees in writing of the details of any such transfer. If the Secretary determines that it is in the national security interest of the United States to transfer such funds immediately, the Secretary shall notify the appropriate congressional committees not later than 5 days after the transfer of such funds.

(4) RETRANSFER- Upon determination by the Secretary of Defense or head of any other Federal department or agency, with the concurrence of the Secretary of State, that all or part of the funds transferred from the Fund pursuant to paragraph (2) are not necessary for the purposes described in subsection (c), such amounts may be transferred by the head of the relevant Federal department or agency back to the Fund and shall be available for the same purposes and for the same time period as originally appropriated.

(5) RELATIONSHIP TO OTHER LAWS- The authority of this section is in addition to transfer authorities provided in the Foreign Assistance Act of 1961 or under any other provision of law.

(f) Report-

(1) INITIAL SPENDING PLAN- Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate

congressional committees an initial spending plan for the any amounts in the Fund.

(2) IMPLEMENTATION- Not later than April 1, 2010, and every six months thereafter through September 30, 2013, the Secretary shall submit to the appropriate congressional committees a report summarizing, on a project-by-project basis, the activities carried out by the Fund, including a description of provisions of law waived to carry out such activities.

(g) Submission of Reports and Notifications- Any report or notification required by this section shall be submitted in classified form, but may include a unclassified annex if necessary.

(h) Appropriate Congressional Committees Defined- In this section, the term `appropriate congressional committees' means--

(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(i) Authorization of Appropriations- There is authorized to be appropriated for the Fund \$700,000,000 for fiscal year 2010 and such sums as may be necessary for each of the fiscal years 2011 through 2013.

SEC. 205. EXCHANGE PROGRAM BETWEEN MILITARY AND CIVILIAN PERSONNEL OF PAKISTAN AND CERTAIN OTHER COUNTRIES.

(a) In General- The Secretary of State is authorized to establish an exchange program between--

(1) military and civilian personnel of Pakistan, and

(2)(A) military and civilian personnel of countries determined by the Secretary of State to be in transition to democracy, or

(B) military and civilian personnel of North Atlantic Treaty Organization member countries,

in order to foster greater respect for and understanding of the principle of civilian rule of Pakistan's military. The program established under this subsection shall be known as the `Pakistan Military Transition Program'.

(b) Elements of Program- The program authorized under subsection (a) may include--

(1) conferences, seminars, and other events;

(2) distribution of publications; and

(3) reimbursement of expenses of foreign military personnel participating in the program, including transportation expenses, translation services expenses, and administrative expenses relating to the program.

(c) Role of Nongovernmental Organizations- Amounts authorized to be appropriated to carry out this title for a fiscal year are authorized to be made available for nongovernmental organizations to facilitate the implementation of the program authorized under subsection (a).

SEC. 206. LIMITATION ON UNITED STATES MILITARY ASSISTANCE TO PAKISTAN.

(a) Prohibition on Use of Funds- None of the funds authorized to be appropriated for military assistance to Pakistan for fiscal year 2011 and each fiscal year thereafter may be obligated or expended if the President has not made the determinations described in subsection (b) for such fiscal year.

(b) Determinations Regarding Enhanced Cooperation Between the United States and Pakistan- The determinations referred to in subsection (a) are--

(1) a determination by the President at the beginning of each fiscal year that the Government of Pakistan is continuing to cooperate with the United States

in efforts to dismantle supplier networks relating to the acquisition of nuclear weapons-related materials, including, as necessary, providing direct access to Pakistani nationals associated with such networks; and

(2) a determination by the President at the beginning of each fiscal year that the Government of Pakistan during the preceding fiscal year has demonstrated a sustained commitment to and making progress towards combating terrorist groups, including taking into account the progress the Government of Pakistan has made with regard to--

(A) ceasing support, including by any elements within the Pakistan military or its intelligence agency, to extremist and terrorist groups, particularly to any group that has conducted attacks against United States or coalition forces in Afghanistan, or against the territory or people of neighboring countries;

(B) closing terrorist camps in the FATA, dismantling terrorist bases of operations in other parts of the country, including Quetta and Muridke, and taking action when provided with intelligence about high-level terrorist targets;

(C) preventing cross-border attacks into neighboring countries; and

(D) strengthening counter-terrorism and anti-money laundering laws.

(c) Waiver- The President may waive the restriction under subsection (a) for any fiscal year if the President certifies to the appropriate congressional committees 15 days before the President exercises the authority of this subsection that the provision of military assistance to Pakistan is important to the national security interests of the United States.

(d) Consultation and Written Justification- Not later than 5 days prior to making a determination described in subsection (b), the President shall consult with the appropriate congressional committees and, upon making such determination, shall submit to the appropriate congressional committees a written justification that specifies the basis upon which the President made such a determination, including an acknowledgment of the extent to which the Government of Pakistan has made progress with regard to subsection (b)(2). The justification shall be unclassified but may include a classified annex.

(e) Definitions- For purposes of this section--

(1) the term `appropriate congressional committees' means the Committees on Foreign Affairs and Armed Services of the House of Representatives and the Committees on Foreign Relations and Armed Services of the Senate; and

(2) the term `military assistance'--

(A) means assistance authorized under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program), including assistance authorized under section 203(b) of this Act, assistance authorized under section 204 of this Act, and assistance authorized under part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.), other than assistance authorized under chapter 5 of part II of such Act (22 U.S.C. 2347 et seq.); but

(B) does not include assistance authorized under any provision of law that is funded from accounts within budget function 050 (National Defense).

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) In General- There are authorized to be appropriated to the President to carry out this title, other than section 204, \$400,000,000 for each of the fiscal years 2010 through 2013.

(b) Relation to Other Available Funds- Amounts authorized to be appropriated to carry out this title for a fiscal year are in addition to amounts otherwise available for such purposes.

TITLE III--MISCELLANEOUS PROVISIONS

SEC. 301. COMPREHENSIVE REGIONAL SECURITY STRATEGY.

(a) Sense of Congress- It is the sense of Congress that the achievement of United States national security goals to eliminate terrorist threats and close safe havens in Pakistan requires the development of a comprehensive plan that utilizes all elements of national power, including in coordination and cooperation with other concerned governments, and that it is critical to Pakistan's long-term prosperity and security to strengthen regional relationships among India, Pakistan, and Afghanistan.

(b) Comprehensive Regional Security Strategy- The President shall develop a comprehensive regional security strategy to eliminate terrorist threats and close safe havens in Pakistan, including by working with the Government of Pakistan and other relevant governments and organizations in the region and elsewhere, as appropriate, to best implement effective counterinsurgency and counterterrorism efforts in and near the border areas of Pakistan and Afghanistan, including the FATA, NWFP, parts of Balochistan, and parts of Punjab.

(c) Report-

(1) IN GENERAL- Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the comprehensive regional security strategy required under subsection (b).

(2) CONTENTS- The report shall include a copy of the comprehensive regional security strategy, including specifications of goals, and proposed timelines and budgets for implementation of the strategy.

(d) Definition- For purposes of this section, the term `appropriate congressional committees' means the Committees on Foreign Affairs and Armed Services of the House of Representatives and the Committees on Foreign Relations and Armed Services of the Senate.

SEC. 302. MONITORING AND EVALUATION OF ASSISTANCE.

(a) Definitions- In this section:

(1) IMPACT EVALUATION RESEARCH- The term `impact evaluation research' means the application of research methods and statistical analysis to measure the extent to which change in a population-based outcome can be attributed to program intervention instead of other environmental factors.

(2) OPERATIONS RESEARCH- The term `operations research' means the application of social science research methods, statistical analysis, and other appropriate scientific methods to judge, compare, and improve policies and program outcomes, from the earliest stages of defining and designing programs through their development and implementation, with the objective of the rapid dissemination of conclusions and concrete impact on programming.

(3) PROGRAM MONITORING- The term `program monitoring' means the collection, analysis, and use of routine program data to determine how well a program is carried out and how much the program costs.

(b) Sense of Congress- It is the sense of Congress that--

(1) to successfully enhance democracy and the rule of law in Pakistan, defeat extremist elements, and ensure the protection of human rights, the President

should establish a program to conduct impact evaluation research, operations research, and program monitoring to ensure effectiveness of assistance provided under title I of this Act;

(2) long-term solutions to Pakistan's security problems depend on increasing the effectiveness and responsiveness of civilian institutions in Pakistan, including the parliament and judicial system;

(3) a specific program of impact evaluation research, operations research, and program monitoring, established at the inception of the program, is required to permit assessment of the operational effectiveness of impact of United States assistance towards these goals; and

(4) the President, in developing performance measurement methods under the impact evaluation research, operations research, and program monitoring, should consult with the appropriate congressional committees as well as the Government of Pakistan.

(c) Impact Evaluation Research, Operations Research and Program Monitoring of Assistance- The President shall establish and implement a program to assess the effectiveness of assistance provided under title I of this Act through impact evaluation research on a selected set of programmatic interventions, operations research in areas to ensure efficiency and effectiveness of program implementation, and monitoring to ensure timely and transparent delivery of assistance.

(d) Requirements- The program required under subsection (c) shall include--

(1) a delineation of key impact evaluation research and operations research questions for main components of assistance provided under title I of this Act;

(2) an identification of measurable performance goals for each of the main components of assistance provided under title I of this Act to be expressed in an objective and quantifiable form at the inception of the program;

(3) the use of appropriate methods, based on rigorous social science tools, to measure program impact and operational efficiency; and

(4) adherence to a high standard of evidence in developing recommendations for adjustments to the assistance to enhance the impact of the assistance.

(e) Assistance To Enhance the Capacity of Pakistan- In carrying out the program required under subsection (c), the President is authorized to provide assistance to enhance the capacity of the Government of Pakistan to monitor and evaluate programs carried out by the national, provincial, and local governments in Pakistan in order to maximize the long-term sustainable development impact of such programs.

(f) Consultation With Congress- Not later than 120 days after the date of the enactment of this Act, the President shall brief and consult with the appropriate congressional committees regarding the progress in establishing and implementing the program required under subsection (c).

(g) Authorization of Appropriations- Of the amounts authorized to be appropriated under section 105 for each of the fiscal years 2010 through 2013, up to 5 percent of such amounts for such fiscal year is authorized to be made available to carry out this section for the fiscal year.

SEC. 303. AUDITING.

(a) Assistance Authorized- The Inspector General of the Department of State and the Inspector General of the United States Agency for International Development shall audit, investigate, and oversee the obligation and expenditure of funds to carry out title I of this Act.

(b) Requirement for In-Country Presence- The Inspector General of the Department of State and the Inspector General of the United States Agency for International Development, after consultation with the Secretary of State and the Administrator of the United States Agency for International Development, are authorized to establish

field offices in Pakistan with sufficient staff from each of the Offices of the Inspector General in Pakistan respectively to carry out subsection (a).

(c) Authorization of Appropriations-

(1) IN GENERAL- Of the amounts authorized to be appropriated under section 105 for each of the fiscal years 2010 through 2013, not less than \$2,000,000 for each fiscal year is authorized to be made available to the Office of the Inspector General of the Department of State and not less than \$2,000,000 for each fiscal year is authorized to be made available to the Office of the Inspector General of the United States Agency for International Development to carry out this section.

(2) RELATION TO OTHER AVAILABLE FUNDS- Amounts made available under paragraph (1) are in addition to amounts otherwise available for such purposes.

SEC. 304. REQUIREMENTS FOR CIVILIAN CONTROL OF UNITED STATES ASSISTANCE FOR PAKISTAN.

(a) Requirements- Any direct assistance provided or payments made on or after January 1, 2010, by the United States to the Government of Pakistan, and any information required by the United States prior to providing the assistance or making the payments, may only be provided or made to, or received from, civilian authorities of a government of Pakistan constituted through a free and fair election. For purposes of this subsection, a government of Pakistan constituted through a free and fair election is a government that is determined by the President to have been elected in a free and fair manner, taking into account the laws and constitution of Pakistan and internationally recognized standards.

(b) Waiver- The President may waive--

(1) the requirements under subsection (a), or

(2) the requirements under any other provision of law that restricts assistance to the government of any country whose duly elected head of government is deposed by military coup or decree, as such provision of law applies with respect to the Government of Pakistan,

if the President certifies to the appropriate congressional committees that the waiver is important to the national security interests of the United States.

(c) Rule of Construction- Nothing in this section shall apply with respect to any activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(d) Definition- In this section, the term `appropriate congressional committees' means the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate.

SEC. 305. SENSE OF CONGRESS.

It is the sense of Congress that--

(1) the Secretary of State, with the concurrence of the Secretary of Defense, should establish a coordinated, strategic communications strategy to engage the people of Pakistan--one that is fully funded, staffed, and implemented--to help ensure the success of the measures authorized by this Act; and

(2) the strategy should have clear and achievable objectives, based on available resources, and should be overseen by the United States Chief of Mission in Pakistan.

SEC. 306. REPORTS.

(a) Report by President-

(1) IN GENERAL- The President shall transmit to the appropriate congressional committees a report on assistance provided under titles I and II of this Act during the preceding fiscal year. The first report shall be transmitted not later than 180 days after the date of the enactment of this Act and subsequent reports shall be transmitted not later than December 31 of each year thereafter.

(2) MATTERS TO BE INCLUDED- The report required under subsection (a) shall include the following:

(A) A detailed description of the assistance by program, project, and activity, as well as by geographic area.

(B) A general description of the performance goals established under section 302 and the progress made in meeting the goals.

(C) An evaluation of efforts undertaken by the Government of Pakistan to--

(i) disrupt, dismantle, and defeat al Qaeda, the Taliban, and other extremist and terrorist groups in the FATA and settled areas;

(ii) close terrorist camps, including those of Jamaat-ud-Dawa, Lashkar-e-Taiba, and Jaish-e-Mohammed;

(iii) cease all support for extremist and terrorist groups;

(iv) prevent cross-border attacks;

(v) increase oversight over curriculum in madrasas, including closing madrasas with direct links to the Taliban or other extremist and terrorist groups; and

(vi) improve counter-terrorism financing and anti-money laundering laws, apply for observer status for the Financial Action Task Force, and steps taken to adhere to the United Nations International Convention for the Suppression of Financing of Terrorism.

(D) A detailed description of Pakistan's efforts to prevent proliferation of nuclear-related material and expertise.

(E) An assessment of whether assistance provided to Pakistan pursuant to this Act has directly or indirectly aided the expansion of Pakistan's nuclear weapons program, whether by the diversion of United States assistance or the reallocation of Pakistan financial resources that would otherwise be spent for programs and activities unrelated to its nuclear weapons program.

(F) A description of the transfer or purchase of military equipment pursuant to title II of this Act, including--

(i) a list of equipment provided; and

(ii) a detailed description of the extent to which funds obligated and expended pursuant to section 203(b) meet the requirements of such section.

(G) An analysis of a suitable replacement for the AH-1F and AH-1S Cobra attack helicopters, which includes recommendations for sustainment, training, and any other matters determined to be appropriate.

(H) An assessment of the extent to which the Government of Pakistan exercises effective civilian control of the military, including a description of the extent to which civilian executive leaders and parliament exercise oversight and approval of military budgets, the chain of command, the process of promotion for senior military leaders, civilian involvement in strategic guidance and planning, and military involvement in civil administration.

(b) Report by Comptroller General-

(1) IN GENERAL- Not later than April 1, 2011, the Comptroller General of the United States shall submit to the appropriate congressional committees a report evaluating the effectiveness of security assistance provided to Pakistan under title II of this Act during fiscal years 2010 and 2011.

(2) MATTERS TO BE INCLUDED- The report required under subsection (a) shall include the following:

(A) A detailed description of the expenditures made by Pakistan pursuant to grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program).

(B) An assessment of the impact of the assistance on the security and stability of Pakistan.

(C) An evaluation of any issues of financial impropriety on behalf of personnel implementing the assistance.

(D) An assessment of the extent to which civilian authorities are involved in administration of the assistance provided by the United States.

SEC. 307. SUNSET.

The authority of this Act, other than section 104, shall expire after September 30, 2013.

Union Calendar No. 66

111th CONGRESS
1st Session
H. R. 1886
[Report No. 111-129, Part I]
A BILL

To authorize democratic, economic, and social development assistance for Pakistan, to authorize security assistance for Pakistan, and for other purposes.

June 2, 2009

The Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

END